CURRENT INTERNATIONAL CO-OPERATION

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I.

The Growth of International Co-operation before the War.

It is with a very deep sense of honor, and an abiding sense of pleasure, that I have accepted the invitation of the Senate of the University of Calcutta to give this series of lectures on "Current International Co-operation." I should be delighted at any time to have the privilege of meeting with so many of my fellow-students whose interests run in the same channel as my own; one whose highest ambition is to do the work of a scholar cannot find anything more to his liking than to meet with his colleagues and to outline to them the direction of his thinking, in the hope that he may evoke criticisms and suggestions which will set him more directly on the road to the common goal.

But my pleasure on this occasion is increased because of the privilege I esteem it to be to meet with you inside the portals of this great University, which is known throughout the world for its hospitality to learning, and which so worthily guards the traditions of an ancient and enduring civilization.

I am the more delighted because the Senate of the University has permitted me to take as the subject of my lectures a topic which is of such common interest to the students of our time, whether they be gathered at Calcutta or at Harvard, or at any other active-minded center. It is a subject which the differences in the methods and manners of Eastern and Western universities do not compel us to approach in any different spirit. It is a theme of vital interest, and I think I may say of the same vital interest, to the peoples of both the East and the West. It opens to the thinking men and women of our generation, in whatever country they may work and under whatever flag they may live, the richest opportunities for the exercise of

political intelligence, political ingenuity and political imagination ; and in the long run, I suspect that it may depend upon those of us who live in the close companionship of ideas, and of books that generate and transmit ideas, rather than upon the activities of so-called " men of action," whether our generation will live up to the opportunities which recent events in world history have made for us.

I feel sure that the scholars of this University share with us at Harvard a general appreciation of the great changes which have come about in international polity during the course of the last one hundred years. But it is so easy to neglect the recent events of one's own and of immediately earlier times, and the temptation is always so strong to ignore the significance of recent happenings in the direction of political thinking, that I must ask your indulgence for a brief review to serve as an introduction to our consideration of the present problems of international co-operation. It can only be unfortunate, I think,

that so many people in the West continue to discuss international affairs in terms of world conditions that have long since passed away, and that conceptions which may have served existing realities in previous times persist in dominating the approach to problems arising out of conditions vastly dissimilar. If I seem to belabor an introduction which deals only with the patent facts of modern international developments, I hope you will attribute my zeal to my contact with Western minds which have so often failed to take account of these facts.

A few weeks ago, indeed it was during the course of the present month, a very significant announcement was made which seems to me to challenge the spirit with which we would approach the solution of present-day international problems. It was heralded by the daily press in many continents that facilities have now been completed for the opening of telephonic communication between London and New York, and on January 7, 1927, a regular telephone service was established across the Atlantic Ocean. Perhaps

most of us have become so accustomed to the feats of modern science that the event did not startle us; many Western peoples, at any rate, live so constantly in a world of "thrilling news" that it was probably greeted with little more than a commonplace interest. But those of us who are searching for the international realities of our time may well pause to understand its significance. It is hardly more than a short half-century since the first successful telephone service in the world was inaugurated, and the fact that such a big development could have been achieved in so short a period may serve to remind us of other changes which have come about in the world during the past hundred years.

I think it is not too much to say that two outstanding things in the past century have served to revolutionize the conduct of international relations. The first was the improvement in transportation and communication, of which the London-to-NewYork telephone service is the most recent testimony. In the course of the past century,

inventions have made it possible for the seas to be laid out as lanes of travel for giant steamships which are to-day connecting all the continents with regularity and speed. Voyages which in the days of sailing vessels but a few years ago required months, now require but weeks and even days. No part of the world is separated from other parts by un-traversed seas. The ocean has become a great world's highway, upon which countries exchange not merely their products and their populations, but their ideas as well. In the course of the past century, also, many continents have been covered with net-works of railways, which have greatly facilitated not only exchanges among the people within a country but also exchanges between the peoples of different countries. In but a few years of railroad development—it is barely a century since the first railroad began to be operated—belts of steel have made it possible for one to travel in a few days from Vladivostok to Madrid and from Quebec to Mexico. Territories widely separated, which a hundred

years ago were without any contact whatever, have been brought into daily and intimate relations.

Improvements in communications have been fully as significant as the improvements in transportation. The first successful cable across the Atlantic was completed in 1866, and since that time cables have been laid to connect all the continents. Land telegraphs throughout the world have made it possible for people in vastly remote regions to be considering almost simultaneously the same events, and to a large extent thinking the same thoughts. The wireless telegraph has been developed even within the last generation; yet hardly a ship sails the seas without it to-day, and few are the peoples who do not depend upon it for following world events from day to day. Last Christmas Eve I found myself on the Syrian Desert at a place some two hundred miles from the nearest settlement in any direction, and there it was possible for me to be in touch with almost any other part of the world by means of wireless. I could not resist the

temptation to ponder upon the caravans which through long ages have been passing Rutba Wells, and to ask myself what those men would have thought of an invention which would have made it possible for them to overcome the desert silence and imprisonment so easily. The development in modern broadcasting has now proceeded to such a point that in many parts of the world one may actually "assist," as the French say, at gatherings of his fellows across the seas and in remote countries.

Such changes in transportation and communication have necessarily profoundly changed the relations of peoples with each other. Few if any peoples now desire to hold themselves free of their influence, and in most countries the life of the ordinary man has been quite revolutionized. The world has greatly dwindled, as compared with what it was a century ago. Distance has ceased to be a barrier to communication. Men live in vastly extended areas, they know what far more of their fellow-men are doing and thinking, and they have become members

of a community which is no longer bounded by a mountain, or a river, or a sea.

A second event of the past century which has greatly changed the world in which we live was the industrial revolution. A hundred years ago, most peoples were mainly dependent on their own production for their livelihood. The seas were widely sailed, and in some countries there were people whose wants might be satisfied from the riches of other lands; but the masses of people in most countries had no facility for disposing of their products abroad in such a way as to permit them to share in the enjoyment of what other peoples might send them in return. With the coming of machine industry, however, accompanied as it has been by the development of mechanical transportation, the world has made a division of labor which was never possible in ages past, with the result that broadly speaking, the resources of the whole world are to-day available to all the peoples of the world. No people in the world is quite content now to live by itself. This has meant greater

complication in the lives of most peoples—their wants have increased and their dependence on peoples in other lands has grown proportionately.

In many countries, the ordinary man draws for his daily living upon the wealth and the labor of peoples who are very remote from him, who indeed were wholly outside his world a century ago; and he finds in consequence that the return for his own labor depends upon the wants and conditions of those who supply his needs. I presume that my own country is one of the most nearly self-supporting in the world; and yet there are few Americans whose daily living is not in some way dependent on what the peoples of other countries are willing to buy and to sell. An American traveling in the East cannot fail to be reminded of the extent to which, in a brief period of a decade or two, the American automobile has created and has come to fill a universal need; yet the American automobile in itself represents the contributions of many different peoples, and if the East's supply of rubber were suddenly

discontinued the automobile industry would all but collapse. Certainly you in India have not remained free of such results of the modern organisation of industry; for if I understand the meaning of the "khaddar movement," it is in itself a recognition of what I am trying to point out. Whether we like it or not, whether it be deemed good or bad, whether we want to encourage or to discourage it, whether we would call it progress or the opposite, the result of what has happened in industry has been to create for all the peoples of the world an interdependence of which their ancestors did not dream a century ago.

These changes of the last hundred years have created a new world society. All of the peoples of the world have been drawn into a single world community which bears little resemblance to the world of separate and self-contained states upon which the nineteenth century dawned. It is a community in which relations between different peoples have become much more intimate, their common problems have become much more

numerous, and their need for common action much more urgent. It demands, in consequence, a new kind of political organization. The state organization of the eighteenth century has by no means lost its capacity to serve many of the political needs of such a community; but it would be astonishing indeed if one should find that it still proved itself an adequate form of political organization when so many changes have occurred since it was evolved. The political conceptions of the eighteenth century may have served very usefully the political realities existing when they were developed and applied, but it does not follow that their usefulness continued after those realities had yielded place to others. But such are the loyalties of men that political conceptions which have once proved their usefulness, are not lightly abandoned, and long after the beginning of the changes which I have attempted to describe, the problems of this new world society continued to be approached by methods similar to those which had previously proved successful.

In the early part of the nineteenth century, the world had practically no international organization. The Grotian system of international law was a great cementing force, though Grotius' distinction between good and bad wars was never really accepted. Even after the beginning of the industrial revolution, and long after the changes in transportation and communication were well under way, politicians continued to think of states as sovereignties wholly independent of each other, whose relations knew no restraints except those which had grown up out of the diplomatic traditions of the seventeenth and eighteenth centuries. Until the middle of the nineteenth century, little thought was given to the new problems of the widening world community, nor to the new possibilities of common action directed to their solution. The large international congresses of the earlier half of the century, assembled in each instance to deal with acute political exigencies, did attempt some international legislation—the Congress of Vienna in 1815 promulgated legislation as to

international rivers, and the Congress of Paris in 1856 laid it down as a rule that "free ships make free goods" in time of war. But no machinery existed for periodical legislation with reference of the common interests of the various states, and it was long after scientists and merchants had begun to build the modern unity before lawyers and politicians began any corresponding activity.

Efforts to deal with the problems of the growing international community commenced soon after the middle of the nineteenth century, and by the beginning of the twentieth century they had resulted in the creation of a new body of world law which had carried us far beyond the classical system of Grotius. One of the first needs to be met was that which sprang from the establishment of telegraphic communications. In 1850, two international telegraphic unions were formed, one comprising France, Belgium and Prussia, and the other comprising Austria and some of the German States. In 1852, a convention was signed at Paris which formed a single telegraphic union of all the continental

European states which had state-controlled telegraph systems. But it was not until 1865 that the International Telegraphic Union which we now have, was formed. For more than half a century, this league of nations has served one of the primary needs of the modern world, and it has developed a great system of international law of telegraphs, applied by a well-organized system of periodic international conferences served by a permanent staff of experts with headquarters at Berne.

It was about the same time, also, that attention began to be directed to the postal needs of the new world community. The extension of industrial and commercial activity during the first half of the nineteenth century had greatly increased the volume of postal communications, and the casual and costly service of private enterprise was superseded by governmental administrations. But years had to elapse before attention was given to the organization of these administrations into an international union which alone could face the problems of

widely extended communication. Bilateral postal conventions were negotiated by various states from the beginning of the nineteenth century, but it was not until 1863 that the first general postal conference was held, on the initiative of the United States of America. Even then the creation of any permanent method of dealing with international postal problems was stoutly opposed, and in France particularly fear for the disturbance of vested interests postponed the beginning of effective co-operation. The Universal Postal Union was organised by twenty-two national postal administrations in 1874, however, and since its beginning in 1875, for more than half a century, this league of nations has functioned with such remarkable success that it now includes practically all of the countries of the world. No people would think of being outside its service to-day, and I take it that no one would now contend that a merely national organization of the world's postal services would suffice. In effect, the world community is being served, and on the whole

well served, by a world postal service locally administered in each country. The latest convention of Stockholm of 1925, is an elaborate body of world law, the existence of which was in no way foreseen a century ago.

As it so frequently happens, the fulfilment of one need creates another. The world community in which people were in daily contact by post and telegraph began to feel the need of some common standards to facilitate the exchange of goods and the expression of elemental conceptions. A century ago there were no common standards of weight and measure, and without them trade was crippled and interchange restricted. Merchants and scientists appreciated the need of them long before the politicians would give it their attention; but after some years of agitation, a diplomatic conference assembled at Paris in 1875 and created the International Union of Weights and Measures —another league of nations which has functioned successfully now for more than half a century, and which fulfils to-day an essential rôle in our world society. If any

of you has ever had the privilege of visiting its headquarters at Sevres, near Paris, and if he has studied the measures taken there for the standardization of various units in daily use throughout the world, I am sure he will not think that I am exaggerating when I say that the result has been the creation of a single world language in a very extensive field. The word meter means the same thing to-day in Tokio and in Timbuctoo; gram has the same significance in Moscow and in Melbourne. When one recalls that in Italy alone, there are some ten or more different kinds of miles in popular usage, he may appreciate what this means to science and to trade—in short, to interchange throughout the world community.

In many other fields, efforts to organize world society have been fruitful. The international union of railway freight transportation, organized in 1871, has largely confined its activities to the continent of Europe; and perhaps one who has but recently traveled through India and has several times had to get up in the night to change

trains because of differences in guage, will be forgiven if he is tempted to wish that its standardising influence had been extended to other parts of the world as well. In 1883, an international union was formed for the protection of industrial property, and its activities are now correlated with those of the union for the protection of literary and artistic property, formed in 1886. Since 1890, some forty states have co-operated in maintaining at Brussels a bureau for the collection and publication of customs tariffs. In 1905, an International Institute of Agriculture was created at Rome. Since 1851, international sanitary conferences have been meeting with irregularity, and a sixth conference at Rome in 1907 established the *Office International d'Hygiene Publique* which has since had a continuous existence, though it was reorganized during the course of the past year. In various other fields, efforts more or less continuous have been proceeding since the middle of the last century, efforts both official and un-official, directed at times to the creation of inter-state

governmental machinery and at times only to the creation of an inter-state law left to depend for its observance on the action of national governments.

In one part of the world, an attempt was made to form an inter-state organization which through the agency of periodic conferences and a permanent bureau might devote itself more effectively to meeting the needs of a part of the international community. In the early half of the nineteenth century, the various states in North and South America had a community of interest in their opposition to threatened European aggrandisement. In 1826, a conference of American states was held at Panama, and it was then envisaged that other conferences should follow. But it was not until changes in transportation and communication had greatly extended their common interests that the idea of a separate union of the American states could make much appeal to politicians. The first Pan-American conference was held at Washington in 1888, a second at Mexico in 1902, a third at Rio de Janeiro in 1906,

a fourth at Buenos Ayres in 1910, and a fifth at Santiago in 1923. An International Bureau of American Republics was established at Washington in 1888, and is now known as the Pan-American Union. The results of these conferences have undoubtedly contributed to the maintenance of smooth and amicable relations among the American states. The conferences have elaborated numerous conventions, some of which have proved to be of little importance, and many of which have never been generally ratified. The Pan-American Union, itself, is without the support of a treaty and depends on the resolutions of the various conferences for its continued support; it therefore leads a hand-to-mouth existence, exercising little administrative power. Moreover, the Conferences of American States are limited by the geographical feature of their organization. The fields are relatively few in which provision can be made for inter-state relations without the co-operation of countries outside America. The world community has not grown up on the divisions of the hemispheres.

Important as are the accomplishments of the Conferences of American States, therefore, their significance can easily be exaggerated when one is drawing a picture of international co-operation, and such exaggeration has not infrequently crept into the recent discussions of a "United States of Europe."

The great volume of international co-operation between 1850 and 1914 may perhaps be described as a nascent international government of the new world community. But there were such gaping lacunae in the political organization of the world before the War, contests over markets and territories had become so sharp, such bitter hostilities had been nourished, that in the more important relations between states, there was nothing that could by any stretch of imagination be called government or a tendency towards government. An international anarchy prevailed, in which each state declared its freedom to act as it pleased, and recognised no outside restraint. The states of Europe did occasionally send their representatives to important international conferences;

the Algeciras Conference in 1906 succeeded in reaching a temporary settlement of a difficult situation in Morrocco, and the Conference of Ambassadors at London in 1913 could patch up a makeshift for Albania. And the two great Peace Conferences at The Hague in 1899 and 1907 successfully advanced the arbitration movement and less successfully modernised certain features of the laws of war. But these efforts did not succeed in establishing any system of conferences, nor did they face the problems of which nations were likely to seek solution by force. With plenty of facilities at hand for pursuing common action, the world of states was without any political machinery for beginning it in 1914. It was wholly without any assurance in advance that a conference would be able to meet in time of crisis, it was without a developed technique for handling the business of a conference, and it was without adequate methods of following up decisions which might be taken by a conference. The early years of the twentieth century were therefore years of

recurring crises, and the crisis of 1914 led across Armageddon.

But the way had been paved by the experience of the various international unions for important departures. All of these unions had grown up along much the same lines of organization. Periodical international conferences meeting at stated intervals exercised a general legislative power, and in many instances departures began to be made from the requirement that unanimity should exist before such legislation could become effective. Whereas it had been difficult in the beginning to get the original conference assembled, and the earlier conference always developed difficulties, it came to be accepted in most of the unions to which I have referred that conferences should provide for their own re-assembling. Gradually ways came to be found more easily for avoiding or escaping difficulties. In some of the unions, the conference provided for smaller conferences, meeting with greater frequency and exercising a limited competence. Most of the unions maintained,

also, permanent bureaux entrusted with authority to deal with interim problems, conducting the necessary liaison between the various states, and in some instances, such as that of the International Bureau of the Universal Postal Union, charged with administrative functions of a high order. These bureaux were sometimes under the control of a single government—the bureaux at Berne were placed under the superintending control of the Swiss Government. In some cases as in that of the Union of Weights and Measures, they were manned by a personnel drawn from various countries and placed under the supervision of an international committee. In some of the unions, also, elaborate provision was made for the arbitration of disputes which might arise, and a recent postal arbitration between the United States of America and Norway is an example of the success with which such compulsory arbitration has often been attended.

Such unions represented within the fields of their activity a limited but a very efficient

international government. If their work had been better known in the community which they served, they ought to have resolved many doubts about the possibility of effective international co-operation by peoples who differ from each other in race, in language and in traditions. And it is a bit surprising that so little account was taken of these unions in the few anticipations of a more general league of nations which were voiced before the War. If their activities left untouched the principal preoccupations which absorbed statesmen during the early years of the twentieth century, they may nevertheless be taken as the harbingers of post-War organization. It was inevitable that at the close of the War, the efforts further to organize the world community should follow the paths blazed in the preceding half-century.

Before the world tragedy which began in 1914, many voices had been lifted to cry the need of a law-and-order organization of the world community. Such hopes had been greatly quickened by the

assembling of the two Hague Conferences, and they were fastened immediately before the War upon the assembling of a third Hague Conference in 1916. If that current of events had not been interrupted, it seems quite possible that some more effective organization might have been forged out of the Hague Conferences themselves, though without the pressure of some great necessity it might have proved difficult to find escape from the quagmires into which eighteenth century dogmas, and particularly the dogma of state equality, had led. Perhaps the idea of world orgnization was as prevalent in the United States of America as anywhere else, and two prominent Americans, Mr. Andrew Carnegie and Mr. Theodore Roosevelt, persistently urged the formation of a League of Peace. It was the easier, therefore, for American opinion to develop during the years of America's neutrality in the War, to a point where President Woodrow Wilson could make it America's chief insistence at the Peace Conference of 1919 that a league of nations should be formed to maintain the

peace that was being ushered in. The rôle of that League of Nations in the world society of our time is to be the subject of my next lecture.

If I may recapitulate this review of the international co-operation which preceded the League of Nations, I hope I have sufficiently described the era in which a world of separate peoples became tranformed into a world community, which evolved in time an elaborate system of co-operation for the protection of some of the interests which all peoples had in common. Improvements in transportation and communication went far toward annihilating the effect of distance in holding men apart, and the industrial revolution broke through the barriers which separated states and made the resources of the world available to all. In spite of the political and legal conceptions which prevailed, the nineteenth century succeeded in developing a new type of political organization to serve the common interests. Some of the international unions which were created have stood the tests of a half-century of experience. The

conference method of handling international affairs was tried in various fields, and it served at the close of the War as the basis of the League of Nations. Fortunate indeed are we of the present generation upon whom this new experiment depends, and the opportunity to continue the organization of the world on a basis of co-operation and mutual aid is rich enough to challenge the most romantic desire for political adventure,

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II.

The Role of the League of Nations in World Society.

In the previous lecture in this series, I attempted to trace the growth of international co-operation before the War with a view to emphasizing the fact that the League of Nations which was founded in 1920 was not cut out of whole cloth, but was a continuation of a process which began as long ago as the middle of the nineteenth century. The various public unions, of which the outstanding example is the Universal Postal Union, dating from 1875, were in themselves leagues of nations which served as prototypes for the League of Nations now launched on a grander scale. The experience of a whole half-century had pointed the road to be taken in the extension of government in the new world community, and the tragedy of the War had fastened

attention on the need for that extension in such a way as to make the necessary departures possible.

Perhaps it may seem too much to say that the framers of the Covenant of the League of Nations consciously proceeded along the lines of organizations in existence before the War. Mr. Leonard Woolf's timely book on International Government, published in 1916, had directed attention in English-speaking countries at any rate to the possibility of utilizing past experience in that way, and the reference in Article 6 of the Covenant to the International Bureau of the Universal Postal Union is one indication of the fact that some attempt was made to profit by the successes of international organization in the past. It is significant also that the frame-work of the new experiment was fashioned so clearly on the general ideas which had given form to the pre-War unions. The Assembly of the League of Nations corresponds very closely to the general conferences of the various unions which had been meeting with

greater or less regularity for half a century; the Council of the League of Nations corresponds less closely to the international committees which, as in the case of the International Union of Weights and Measures, had been meeting with greater frequency; and the Secretariat of the League of Nations finds its prototype in the bureaux maintained by some of the unions, particularly the five international bureaux at Berne. Of course this correspondence cannot be pressed too far; past experience had shown that some departures were necessary; the efforts of the Hague Conferences had focussed attention on the conflict between the political dogma of state equality on the one hand and the political fact of the hegemony of certain Powers on the other hand; and with the ending of the World War, the time was ripe for experimentation with some new ideas. But the fact remains that we had already passed through a long period of endeavor to implement the new world society with agencies whose operation was not confined to single states, and the

teachings of that experience were available when the time arrived for a more thoroughgoing effort to organize the world community.

I suppose it was inevitable that as soon as the League of Nations was organized it should be invested in popular opinion with a distinct personality. People at once began to think of it as a political entity comparable in a larger way with the states which were its members. In some parts of the world there were those who condemned it as a super-state threatening to undermine the prized sovereignty and independence of national states, while others welcomed it as a super-state which might in time be guided by a world opinion which would organize itself independently of the prevailing nationalism. As soon as the activities of the League of Nations got under way, it was easy for the former group to "blame the League" for many of the throes through which the post-War world had to pass; and the temptation was great for people in the latter group to claim "credit for the League" for any

successful efforts to alleviate the difficulties of post-War reconstruction. These attitudes of mind were encouraged of course by the wave of high idealism which carried the world through the sufferings of the War, and without which the necessary willingness to extend our international organization might possibly have been long postponed. Like so many other things in the psychology prevailing during the years of the War, this idealism became highly inflated, and the immoderate hopes which inspired people to make the sacrifices necessary for waging the War led many people to look forward to a new international order which was to be wholly dissociated from the past, and particularly from the difficulties which had thwarted progress in the later years. As a consequence, inordinate expectations were aroused, which had the effect in some instances of relieving people of that sense of responsibility which they would otherwise have felt ; and the disappointment of these expectations prevented many people from lending their support to the organization

of international co-operation along the new lines.

Now I submit that for a truer view of the League of Nations we must regard it, not as a new political entity created in a world of states, not as having a political personality of its own, not as a state in itself, but as a new method which has been adopted by the existing states for co-operating to meet those needs of world society which cannot be met by national action. The League is not a new power erected to see that righteousness prevails throughout the world; it is not an independent state which goes behind the governments of national states to their peoples for its constituency; it is not a governmental agency with an unlimited mandate to maintain the world's peace. It is merely a device by which certain nations have undertaken to co-operate in their efforts to solve some of the problems which they have in common, and to protect the interests of the larger world community as they are viewed by peoples each of whom would jealously guard its own national existence. It

is, in short, a method of co-operation, a way of living together for the states of the modern world.

I have often heard the League of Nations condemned as a league of governments and not a league of peoples. It is an accurate description in many ways, but I cannot think that the condemnation proceeds from an accurate appraisal of the present possibilities of international action. If the future holds in store some sort of world government which does not depend on national governments, I find it impossible to discover any indication of it now. The War has intensified rather than diminished the spirit of nationalism, and at the present time it would seem that progress in organizing world society depends upon the collaboration of national governments. It is to extend that collaboration, already begun before the War, that a new method has been adopted, and intelligent support of the method seems to call for our seeing it clearly as such. This does not refer to certain legal theories of the nature of the League of Nations, which may

be invented to enable certain things to be done. For instance, property in Geneva has been acquired by the League of Nations as such, and to this extent it may be classed as a corporation.[1]

I sometimes fear that some friends of the League of Nations are rendering a disservice by continuing to regard it as more than a way of doing business. When some progress is made, they are tempted to claim "credit for the League," as if the credit belonged to a single political body and not to the various governments which have united to achieve a desirable end. I have frequently been asked what is the attitude of the League toward particular international problems. Such questions are based on the confusion which I would fain dispel. A method does not have attitudes, a way of doing business does not formulate judgments. But with reference to any particular problem the government of each of

[1] See 20 American Political Science Review, p. 847.

the Members of the League of Nations may have an attitude and may seek at Geneva to have it shared by the governments of other Members. The difference is more than a difference in form of statement—it seems to me a difference in understanding, and in appreciation of how we must proceed to work by international action.

As a method of dealing with world affairs, the League of Nations is mainly limited to what may be done by conferences of national government representatives. The Assembly is an annual conference which is too inclusive for executive action, but which serves the world most usefully as a forum for public discussion and as an agency for guiding opinion. In seven years, it has become an accepted thing that this conference is to meet on a fixed date each year. If one studies the history of the numerous international conferences which have been held since 1850, I think he has to say that this in itself is a great advance. Before the War, it was often very difficult indeed to

get a conference assembled. If one state suggested it, others frequently suspected its motives. The agreement in advance on the agenda of a conference was difficult to reach when states were limited to communication through the formal channels of their diplomatic representation. If a single conference was held, it was with the greatest difficulty that its work was continued in later conferences. Most of the international unions came but slowly to the possibility of conferences meeting at regular intervals. The first Hague Peace Conference in 1899 looked forward to the assembling of its successor; but although President Roosevelt acting on the initiative of the Interparliamentary Union sought to negotiate to that end in 1904, it was not until 1907 that the second Peace Conference was held at The Hague. A third conference was then envisaged after the lapse of a similar interval, but in 1914 it had already become clear that apart from the War some postponement was to be made. Immediately before the War, people interested in extending international co-operation were

concentrating their efforts on the meeting of a third Peace Conference at The Hague, and on the establishment of the tradition that such conferences should be held at intervals of eight years in the future. How inadequate such a programme appears to-day! The wildest optimist would hardly have predicted before August, 1914, that within little more than a decade the world would have grown accustomed to annual international conferences at which the representatives of more than fifty Powers would be able to consider many of the current problems of international affairs. Yet that has actually been achieved to-day, and we have come to count with a degree of confidence on a session of the Assembly beginning on the first Monday in each September.

The action of the Assembly is limited not only by its size, but also by the principle of unanimity. Some of the unions to which I referred in my previous lecture succeeded in making significant departures from that principle, and the Assembly itself has established a practice of liberality with respect

to certain types of resolutions which do not strictly relate to procedure. But I doubt whether much purpose is to be served at the present time by an insistence on formalization of more radical departures. It has sometimes been suggested that certain measures taken by the Assembly might be deemed to be binding on all Members of the League which do not positively dissent. No such suggestion is likely to win favor in an actively nationalist era, and premature steps of the sort might lead to an unfortunate setback. It seems enough of a task, for the present, to establish the Assembly firmly as a forum of general discussion, as a meeting-place of statesmen, and as a center for broadcasting the raw materials of world opinion. By its review of everything tath is done through the Council and through League commissions, and by its control of the finances of the League, the Assembly already exercises powers which give it prestige and importance, and attempts to make it an executive body can hardly be destined to increase its usefulness.

The conference method which we call the League of Nations also includes a smaller international conference which during seven years has been meeting on the average of six times a year. The record of these forty-three conferences is so voluminous, so many questions have arisen before them, and such frequent appeals have been made to them, that one wonders how the pre-War world found it possible to live without any analogous procedure. Yet few people had envisaged such a method before 1914, and doubtless without the pressure of a great world crisis its inauguration would not have been achieved in 1920. The recent difficulties in reconstituting the Council of the League of Nations have grown from insistencies more prevalent before the War than now; and if the world of to-day were confronted with the task of beginning this form of organization, one wonders whether agreement could be reached at all. Yet in seven years, we have grown accustomed also to this form of co-operation, and the business of many Foreign Offices in the world is actually

conducted with reference to the calendar of the quarterly meetings of the League Council.

The actual composition of the Council seems to be frequently misunderstood in popular discussion. It is often overlooked that Article 4 of the Covenant provides that "any Member of the League not represented in the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League." During the past seven years, matters affecting the interests of Members not regularly represented on the Council have arisen very frequently, and such Members have often availed themselves of the privilege of special representation. Their representatives sit on a basis of equality with other representatives, and hence the requirement of unanimity in Article 5 applies to them. But criticism of the Council has often been based on a neglect of this fact, and its supposed dominance by certain Powers is one of the unfortunate results.

One great advantage of this smaller conference has been its size. It was originally planned to consist of representatives of nine Powers, but that number was early increased to ten, and it has now—at the seventh Assembly—been increased to fourteen. Though this latest increase is attributed to a desire "to take account in a more comprehensive and equitable measure of the principle of geographical distribution of seats," it must be explained as due to persistent demands which could not practically be ignored, and it yet remains to be seen whether the Council will continue its effectiveness undiminished. With the privilege of special representation, each state not regularly represented on the Council could prevent any serious compromise of its interests, and the larger body has now lost a certain psychological advantage in its deliberations. The desire for regular representation on the Council gives fresh indication, however, of the prestige already acquired for this new method of international co-operation.

It is a bit surprising that through these

seven years the work of the Council has proceeded so smoothly. This is not because many questions about its organisation and procedure do not still remain open. The allocation of functions as between the Assembly and the Council has never been clearly determined. The Covenant provides that both may deal "with any matter within the sphere of action of the League or affecting the peace of the world;" yet the uncertainty has caused little friction since the time of the first Assembly when a conflict arose over their jurisdiction as to mandates. Nor has it been formally determined what constitutes that interest in a matter which will entitle a state to special representation on the Council. Questions as to the requirement of unanimity remain open, also, and when the Mosul dispute was being heard, they necessitated a request for an advisory opinion from the Permanent Court of International Justice. But in spite of these points and others which might be mentioned, the willingness to co-operate has been such that the Council has been able to carry on, and

gradually a practice accumulates itself which may serve the needs of the future. I think the Council's success far exceeds what most cautious students would have been willing to predict for it seven years ago, and certainly it goes far beyond what most of us had imagined to be possible in the way of international co-operation before the War. One is tempted to believe that with such a beginning the conference method has come into the world to stay.

The success of these two series of conferences—the Assembly and the Council—has not meant, of course, that all international affairs can be handled by them. In the first place, the pre-War unions still exist—Article 24 of the Covenant has not detracted from their separate status; and because of the abstention of certain Powers from co-operation by the League of Nations method, some of the unions have been greatly enlarged. For example, the *Office International d'Hygiene Publique* has been given larger functions by the convention signed at Paris in 1926. In the second place, new unions

or autonomous organizations have been created as a part of the League itself, and the International Labour Conference which meets annually possesses an importance second only to that of the Assembly and the Council. In the third place, it has been found convenient to hold many conferences dealing with special questions independently of the meetings of the Assembly and the Council. In some cases, these conferences are called by the Council and held "under the auspices of the League." The facility with which conferences are now convened is one of our greatest advances since the War. Suspicion no longer arises from the initiative taken by the Council; a secretariat and a procedure are at hand to assure the smooth working of the conference; and a possibility exists of having attention given to the work of the conference after it has adjourned. The special conference on traffic in women and children, the conference on the suppression of traffic in obscene publications, the two conferences on traffic in opium and dangerous drugs, the conference on traffic in arms, the

conference on the simplification of customs formalities, the two conferences on the standardization of biological products, the two conferences on the simplification of passports —all of which have been held—and the economic conference which is planned to meet this year, are outstanding examples of conferences of this type. I suspect that many people in 1920 anticipated that more of this activity might be entrusted to the Assembly itself, but it would have meant an undue enlargement of the personnel of the various delegations in the Assembly to have included the experts necessary for such varied subjects.[2] In the fourth place, there are some questions which because they are of special interest to a few states or to states not members of the League, must be considered at conferences held outside of this system—the Washington

[2] The Indian delegation to the seventh Assembly has expressed the view that an assembly session is an inappropriate occasion for the conclusion of separate international agreements which are intended to be open for immediate signature. See its Interim Report, p. 38.

Conference on Limitation of Naval Armaments is an example. In all of these ways the post-War world proceeds with the task of government, and the progress since the War has far outstripped that of any previous period in the world's history.

But the development of this conference method of dealing with international affairs was not the end and aim of the League of Nations. It was only a means of serving other ends. And we should now turn our attention to some of the functions of the League of Nations in modern world society, and make an effort to say how they are being discharged.

During the progress of the World War, the conviction was borne in upon people on both sides of that struggle that some way ought to be found for nations to live together which would avoid such fratricidal horror. In some of the countries arrayed against Germany and her allies, the belief took root that such a way could be found by all the nations joining in a pledge to use their power against a disturber of the world's peace, it

being stipulated in advance what would constitute a nation such a disturber. The psychology of the War itself and the necessity of creating a *moral* which would continue it, led people on both sides to think of the struggle as due to the deliberate purpose of a single nation. I suspect that few of us view the matter so simply to-day. But when the Peace Conference met at Paris in 1919, the statesmen of the victorious countries found themselves dealing with a powerful public opinion, partly of their own creation, which demanded that every effort be made to provide for the common use of force against any state which might run amuck in the future. In the United States of America we had had a powerful "League to Enforce Peace" which was organized on that platform, and in other countries opinion had developed in the same direction.

It was inevitable, therefore, that as the League of Nations was founded at the end of the War and partly as a result of it, its Covenant should express that purpose. Article 10 of the Covenant pledges the Members of

the League in a general way to protect each other against external aggression. Article 11 declares any war or any threat of war to be a matter of general concern to all of the Members of the League. Article 16 declares any resort to war in disregard of the procedure laid down for preventing hostilities, an act of war against all other Members of the League, which are committed at once to an application of certain economic sanctions and which may be advised by the Council as to their employment of force itself. These obligations were very sweeping, and they were bound to have given rise to much difference of opinion. No doubt they were as well drafted as was possible with the differences in viewpoint prevailing at Paris; but they were not so well drafted as to leave no room for long controversies as to their meaning. They had to be studied by peoples who were accustomed to different ways of reading the written word—in some parts of the world the general language of Article 10 was given its general meaning, in others it was viewed as a model of precision which left

no scope for interpretation. The result was exaggerated fears which the interpretative efforts of the Assembly have not yet dispelled, and which have been influential in keeping one country at least outside the membership of the League.

Perhaps enough time has now elapsed since the Peace Conference at Paris for one to see how these efforts to enforce peace were influenced by the excesses of the time. Certainly President Wilson's view, expressed in the heat of bitter controversy, that Article 10 is the heart of the Covenant, will hardly be shared by most of the people who during these years have borne the brunt of the responsibility for the success of this experiment. And the view seems to be widely held that the practical difficulties of enforcing economic sanctions are such as to render that provision in Article 16 of little value. Few people in countries which are Members of the League have ever supposed that Article 16 empowers the Council to control the use of their armed forces, and the crucial decisions which would have to be taken if it were quite clear that

a particular country were the aggressor in a war still rest where they would rest if Article 16 did not exist. It may be doubted, therefore, whether the attempt made at Paris to enforce peace will succeed; a test has not yet come, and much will depend upon the particular way that it does come. Some purpose may be served by having this part of the Covenant formulated in advance; it may have the effect of adding to the deterring forces in some cases, and even when words do not execute themselves they sometimes serve as useful pegs upon which insistences may be made to hang.

Whatever be one's judgment of the provisions of the Covenant, I think he has to say that the use of the League of Nations method in handling acute international situations during these seven years has been so satisfactory as to warrant high hopes for the future. The record may not fulfil the extravagant expectations entertained in 1919—few were the interested people of that day who did not expect too much; but it does justify us in believing that a great advance

has been made over that time when no machinery existed and no procedure had been developed for conferences in situations which threatened war. In a number of instances, the usefulness of the new method has been proved. The first outstanding case was that of the Aaland Islands, where a question falling quite clearly into the category of matters affecting " vital interest and national honour " usually excepted from the application of pre-War methods of peaceful settlement, was handled in such a way that it has ceased to agitate the politics of Finland and Sweden, the countries concerned. It was followed by the prolonged difficulty between Poland and Lithuania over the territory of Vilna, and if one cannot yet say that this difficulty has vanished still it has not led to open hostilities. The frontier disputes between Albania and Jugo-Slavia grew very threatening at one time, and that was the only occasion when serious reference has been made to executing Article 16; but those disputes have passed without occasioning a war. The difficult question of the boundary

between Germany and Poland in Upper Silesia was successfully handled by the Powers acting through the League of Nations, and if the result is not permanent, it is proving at any rate the bridge upon which the two countries have passed and are passing to more friendly relations. The occupation of Corfu by Italian forces created a very tense situation which was certainly alleviated by the conferences held in Geneva. The inability of Great Britain and Turkey to agree upon the allocation of the villayet of Mosul as between Iraq and Turkey, created a situation which might easily have led to war, but which was settled by an award which all parties have now accepted. In 1925, the border trouble between Bulgaria and Greece was so serious that a war would have seemed almost inevitable if there had been no recognised and acknowledged forum in which Bulgaria could seek redress for hostile incursions. In all of these cases, the League method has been employed, and employed with success. They were not all dealt with in precisely the same way. Some of

them required the utilization of other agencies as well. Some of them may not have been handled according to all peoples' ideas of justice. But in all of them, the world has had reason for satisfaction that a new method of proceeding was available and was in fact resorted to. I do not want to leave the impression that I think that a war was clearly averted in any one of these cases. We cannot see the wars that do not happen. Perhaps other ways out might have been found in every single case. Nor am I claiming any "credit for the League" for what was actually achieved. My insistence is that this record justifies our thinking that the new method is serving the needs of our time and offers prospect for greater harmony in the international community in the future. If it had been in vogue in 1914, the recent history of the world might have been very different.

It is fortunate, I think, that no attempt has been made to apply any absolute conceptions of justice in the instances which I have enumerated. The League method

consists in bringing representatives of the disputing states together around a table for an open discussion of their differences ; it does not mean that any specific is at hand for any trouble which may arise. Nor can we be certain that this discussion will always avail to keep the peace. It is worth a great deal to have a table ready, and the agencies of communication available for such discussion to be begun. The representatives of other Powers assert the general interest in the preservation of peace, and sit in readiness to explore possible ways of settlement. Public attention is focussed on such a meeting, and in such a situation as that created by the Corfu crisis an informed public opinion can make itself felt as a powerful deterrent to precipitate action.

It seems to be easy for a public to oversimplify many international problems and to suppose that the course of justice is clear and unmistakable ; but if the experience of the last few years is studied, I think it will demonstrate the frequent necessity of trying many expedients before any settlement can

be reached. It is important to have not one forum, but many; to be able to shift the discussion from the one forum to another as an *impasse* is reached in the one, and in many cases to shift it back again. The Mosul case will illustrate my meaning; the Council first considered the situation; it then created a commission to visit the territory in dispute; it reached an *impasse* in dealing with the report of that commission; it requested an advisory opinion of the Permanent Court of International Justice; it created a second commission to report on the maintenance of the *status quo*; and it reached a final decision more than a year after it became seised of the dispute. Such a process requires not only machinery, but continuous and patient use of it. None of us needs to cherish the feeling that it is a simple matter to maintain the world's peace, nor indeed that it can be maintained in all cases. Instances may well arise in which the League method cannot most usefully be applied; I am not sure that the non-participation of the United States of America and the dispute

of the historic government's authority do not make the present situation in China one of them. Other instances may arise in which the League of Nations method may fail; certainly its invariable success is not assured. But what we can be sure of, I think, is that the effort at rational solution is worth while, and if the alternative of war, which usually gives no solution at all, can ever be justified, it is only after every other possible course has been fully explored.

But the facilitation of efforts to prevent war is not the only advantage which accrues from co-operation conducted by the method of the League of Nations. Quite as significant for the future is the attempt now being made by more than fifty nations to deal with a large number of matters which require something resembling administrative action. The numerous committees and commissions now maintained on a more or less permanent basis, each dealing with some special matter of general concern, had no counterpart in the pre-War situation. It was not because the problems did not exist before the War,

nor because there was no desire to deal with them; but simply because no form of organization had been developed which made it possible. To-day, there is hardly a week in the year when some international conference is not being held in Geneva, and the volume of constructive work already accomplished is so significant that this kind of co-operation now seems indispensable for the future.

I shall speak first of the Permanent Mandates Commission of the League of Nations, for it represents most strikingly the new method of asserting the general interest in matters which before the War were left to national control. It was one of the consequences of the industrial revolution that some of the peoples whose industry was most highly organized began to exercise political power over other peoples who might furnish them markets or raw materials. The continent of Africa became prey to imperialistic expansion, and many were the scandals which came out of the relations between the invaders and the indigenous population. Some of these scandals shocked

the whole world. The atrocities reported to have been committed in the Belgian Congo aroused great resentment among various peoples and led to many efforts at protestation. Such was the feeling in several Western countries, at any rate, that the governments would have been moved to action if any avenue had been open for it. But there was no avenue open. There was no system of accountability in such matters. There was no way for the general interest in humane relationships to be asserted. One has only to read Lord Grey's recent memoirs, entitled "Twenty-five Years," to appreciate the difficulties which thwarted the British Government's desire to use its influence effectively toward improving the situation in the Congo. It was clear at the end of the War, therefore, that some system of accountablity had to be devised before any more territorial expansions in such areas would be justified. The decision to deprive Germany of her overseas possessions is quite another matter, and I would not attempt to justify that decision. But once it

was determined that a change was to be made, the interests of the international community quite clearly demanded the creation of machinery and methods for enforcing the accountability which pre-War experience had shown to be necessary. And that office is being served to-day, under Article 22 of the Covenant, by the activities of the Permanent Mandates Commission. One does not need to think that the mandate system is perfect, he may think that it was inaugurated at the Peace Conference as a disguise for annexation, he may find the administration of certain of the mandated territories most unsatisfactory, he may object to the placing of certain territories under mandate ; but I think we have to say that if control over certain peoples by others is to be continued at all, the system represents a great advance over anything that was in vogue before the War, and that it is pregnant with possibilities of future development which may correct many evils.

No other part of the co-operation through the League of Nations has been the subject of such wide misunderstanding as the

mandate system. The impression seems to prevail in some quarters that it is a method of direct government by the League of Nations, and as a consequence it is assumed that a power exists in some body at Geneva to correct particular measures of what is thought to be mis-government taken in a mandated territory. Such an impression seems to mistake international accountability for international administration. I am quite convinced that the task of a mandatory Power would soon become impossible if its every action were subject to appeal and review by other Powers acting through one of the agencies of the League. But it is quite possible that better methods of enforcing accountability than have been in practice during the past seven years can be devised. Certainly it is not enough that the Permanent Mandates Commission should be confined to receiving reports from mandatory Powers after troubles have occurred. If the recent proposal of the Commission that it be allowed to receive petitions from the inhabitants of mandated territories in exceptional

cases cannot be accepted, some other method should be invented for giving to such inhabitants an opportunity of presenting views which the mandatory may not approve.

A somewhat allied attempt is being made by the Council of the League of Nations in exercise of the power conferred upon it by the various treaties for the protection of racial, religious and linguistic minorities. In certain countries of Western Europe, the possibility of maintaining international peace is very closely connected with the treatment accorded to minorities. Any territorial readjustment in that part of the world, in 1919, would have been precarious ; but it was almost certain to be more so unless some way could have been found for assuring to the inhabitants of transferred territories a minimum of consideration for their racial, religious and linguistic traditions. In making these treaties a part of the peace settlement itself, and in conditioning the sanction of certain transfers of territory on their acceptance, the Peace Conference at Paris was but following precedents of long standing.

Elaborate provisions had been drawn up at the Congress of Berlin in 1878 for protecting the minorities in several of the Balkan States, but in some instances they had proved wholly ineffective because there was no way for other countries to seek to have them enforced. One does not need to believe that the new treaties will be observed to the letter, to see that they may serve a very useful purpose. It is something that their provisions, which are far more detailed than those elaborated by the Congress of Berlin, are put in such a form that they can give the starting-point for discussions of constitutional guarantees. And it can only be considered an advance to have the possibility of the Council's consideration of cases of flagrant abuse. Such cases may under the treaties be brought to its attention by the government of any state represented on the Council ; but in practice a much more liberal procedure is followed, and any *bona fide* petition from an aggrieved minority actually receives the attention of a committee of the Council. If one compares this situation

with that prevailing in 1902 when the United States of America protested about the treatment of Jews in Roumania, I think he has to say that progress has been made in dealing with this great problem which is at once local and general.

I do not propose to deal at length with the work of all of the League commissions which I am sure you will agree are very important. The Health Committee has rendered the whole world a signal service in the establishment of an epidemiological intelligence service; and the recent organization of an intelligence centre at Singapore must have been greatly welcomed in this part of the world. Its international exchanges of public health personnel promise the beginning of a movement which, if continued, may come to mean that the whole world will in time be speaking a common language of public health administration. The Economic Committee has rendered the greatest service in dealing with the serious problems growing out of the aftermath of the War, and the success of the reconstruction undertaken in

Austria and Hungary and the refugee settlement schemes launched in Greece and Bulgaria is one of the brightest chapters in our post-War history. Even when normal conditions may come to prevail in the world again, the need for such a committee will continue. The Advisory Committee on Transit and Communications meets a demand of the international community which has been long neglected in the past, as a simple enumeration of questions considered during the past year will indicate ; these questions related to inland navigation and ports, maritime navigation, the unification of tonnage measurement, safety of ships at sea, buoyage and the lighting of coasts, railways, passports, road traffic, telegraph and telephone communications, transmission of water-power, unification of law relating to inland navigation, and the reform of the calendar. The common interest of nations in such matters was recognised as long ago as 1865, when a convention was signed by various Powers for the maintenance of the Cape Spartel lighthouse on the western shore

of Morrocco ; but without such machinery as has now been created, it received but spasmodic attention. The Government of India has taken a very special interest in the work of the Advisory Committee on traffic in opium and dangerous drugs, and it is within the past few days that we have read of the election of Sir John Campbell, your Indian representative, as chairman of that Committee. The people of Calcutta must also have taken a lively interest in the work of the Committee on Intellectual Co-operation, in which your distinguished scientist, Sir Jagadis Bose, has played an important part.

Each of these activities, and many others as well, would deserve to be the subject of a whole lecture. But I want to speak only of their general effect, and of the effect of all the co-operation by this method, on the intelligence of the modern world in its approach to international affairs. I think it is safe to say that never before in the history of the world has so much of that intelligence been directed to the solution of the problems which the peoples have

in common. One excellent result of a center like Geneva is the creation of a personnel trained in international co-operation. Officials in various governments go there and become acquainted with their opposites in other countries. Continuous contacts are maintained. Experts in the service of all the fifty and more governments are giving their time through twelve months in the year to matters of common interest to all peoples, and they serve as independently of national bias as it is possible for any of us to be. The Secretariat is an international civil service at the disposal of the various conferences, and its work is of inestimable value in increasing their efficiency. Time and again, reading the reports of pre-War conferences, I have been impressed with the need of such a service. American delegations returning from various conferences, notably the second Peace Conference at The Hague and the fifth Conference of American States at Santiago, have complained of the ineffectiveness of their efforts owing to lack of organization. The conference

method, as we know it in the League of Nations, works because there are trained people at hand to make it work. Of inestimable value also, are the personal contacts between statesmen, who in such a place as Geneva can meet for informal discussion without the glare of headlines playing about their heads. In the sixth Assembly of the League of Nations, I counted some twenty cabinet ministers from as many countries, gathered in a single meeting.

Quite as important is the effect of this method on popular opinion. We who are students of international affairs must be specially pleased to have the documentation necessary for keeping abreast with international developments. The League of Nations Treaty Series is a mine of interest for the lawyers, who now for the first time in history have a reliable compendium of the world's treaty law. The reports of commissions and the *proces-verbaux* of conferences, usually so difficult to procure in the past, are now made available in uniform publications. The reports of the

delegates of India to the seven sessions of the Assembly of the League of Nations, issued as public documents in this country, seem to me excellent guides for public intelligence, and the delegates of other countries could not do better than to take them as models to be followed for informing their publics of what they have attempted to do. The newspaper-reading public has better facilities for following the progress of affairs than it had in the days of conferences organized on the older diplomatic lines. In fact, publicity has had many victories since the League method was inaugurated. In the beginning the minutes of the Council were not made available to the public; but that continued only for the first eleven sessions. To-day all the minutes are made available as they are prepared. This can be the better appreciated if one compares the recent methods of the Conference of Ambassadors at Paris and those of the Council of the League of Nations. The record of the former is a sealed book, that of the latter is open for those to read who will.

The results of this increase of intelligence applied to international affairs cannot fail to be helpful in the future. Not only do they promise a greater rein for rationalism in its contest with those supposed instincts of man which make him want to fight and to let off steam, but they promise also a mobilization of power directed to the development of the political experiments through which an organized world must pass. In my own field of international law, I feel that we are at the beginning of a new era, and in a later lecture I shall deal with the prospect for an extension of law and justice in the world society of the future, as a consequence of the existence of the League of Nations.

Readings on Lecture II.

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III

The Role of International Courts in World Society.

In the first lecture in this series, I attempted to outline the forces which contributed during the nineteenth century to the formation of our present world community, and the efforts under way before the War to meet the needs of that community by organized action. In a second lecture, I dealt with the inauguration of the new method of conference and co-operation which we call the League of Nations, and on the experience of the past seven years I endeavored to point out some of its larger significances for the future. A distinction is commonly drawn between political and non-political activities in the field of international relations, and much of the work done by the League method is said to fall into the former category. I am not sure that the distinction serves much

purpose, and for myself I cannot sharply distinguish between those things which fall within the reach of the politicians' prerogative and those things which are outside it. Any activity which the politicians undertake would seem to me to become political by reason of their undertaking it. Yet the politicians will often need the co-operation of men of other professions, and particularly of lawyers and judges, and I would now invite your attention to those special problems of international relations which require the attention of courts manned by professional jurists.

Laymen are often tempted to exaggerate the role of law and courts in human society. The analogies between national and international law are so easily stretched that many people would make the same approach to both. They see in most countries a clearly recognised body of law, much of which may be known by individuals in advance of their acting and may be applied and enforced by courts with some degree of certainty and promptitude. They therefore conclude that

an international community must have a similar code of law governing the relations of states, and courts which will enforce it without favor against all states alike. Although much of the national law which relates to the action of public bodies and to the harmonizing of public relations cannot be viewed precisely as that law which governs the relations of individuals *inter se*, this distinction is often neglected by people who think of a dispute between two states as they think of a dispute between two of their fellow-citizens. The fact is forgotten, also, that even the national law of most countries does not make provision for all of the individual relations, and that especially in the more highly industrialized countries we are confronted every day with numerous relationships which remain on the outer fringe of crystallized law.

The over-simplification of the legal questions arising in international affairs is further encouraged by much of our legal philosophy and by lay versions of it. Some people seem to think of law as a gift of a divine Providence,

of which the operation is impeded only by the waywardness of selfish and greedy men ; and they seem to expect agencies created to apply it to act independently of the ordinary conditions of human action, as if law were automatic and courts but automatons in its administration. The opinion voiced in some parts of the world, therefore, looks forward to the codification of international law and the creation of courts "with teeth" to apply it, in such a way as to enable us to dispense with the continued action of the politicians. I shall deal with the codification of international law in a later lecture, and I shall now confine myself to a discussion of what our international courts have done and what we may expect of them in the future.

The creation of courts organized in such a way that they can serve the whole community of states has proved to be one of the difficult tasks of the immediate past. The idea of an international court of justice has stirred in men's minds for many generations. Jeremy Bentham in his zeal for law reform saw the need of such a court even before

the beginning of the nineteenth century, and almost all of the schemes for international organization put forward during the nineteenth century included some such suggestion. But it was not until more general interest in the development of arbitration was stimulated by the successful arbitration in 1872 of the dispute between Great Britain and the United States of America, concerning the Alabama claims, that such suggestions came within the serious notice of responsible statesmen. Popular interest in the creation of a permanent agency for arbitration continued to increase, but no nation took the step of calling a conference for the purpose; and with so little opportunity for enacting the necessary legislation, nothing was accomplished until the first Peace Conference met at The Hague in 1899. The subject did not find place among the items on the agenda of the conference even then, and it was only added after the sessions had been begun. The conference succeeded in getting agreement on the convention for the pacific settlement of international

disputes, and it set up the Permanent Court of Arbitration, which since 1900 has served a very useful function. The Permanent Court of Arbitration hardly deserves that name, for it is not in fact a court; it has no judges, and it is not permanent in the sense of having a personnel of members who devote their time to any international work. Indeed, it is only a panel of the nominees of various governments who may serve as arbitrators when they are invited to do so. The arbitration procedure envisaged in the convention for pacific settlement may also be followed by arbitral tribunals whose members are not drawn from this panel. But as the first agency of its kind, the Permanent Court of Arbitration holds an important place in the history of our international polity.

It is now a quarter of a century since the first arbitration was entrusted to a tribunal chosen from the Permanent Court of Arbitration, and in that time nineteen arbitrations have been referred to such tribunals or handled in accordance with the procedure outlined in the convention for pacific

settlement. The nineteenth case, a dispute between the United States of America and the Netherlands concerning an island in the Philippine Archipelago, has not yet been finally disposed of. The record itself is imposing, and indicates the existence of the world's need of such an agency. But perhaps the mere fact of the existence of such a body has proved more important than the awards which have been made. For it has focussed attention on the possibilities of peaceful settlement, it has greatly encouraged the development of arbitration and the negotiation of arbitration agreements, and it has paved the way for further steps which have been taken towards the international administration of justice. If at times false hopes have been aroused among people who did not understand the limited nature of the progress made at The Hague, the effect of their disappointment has been more than offset by the encouragement given to a belief in the efficacy of effort in this field. The older notion that nations have always fought and always will and the pessimistic view that

arrangements in advance intended to facilitate peaceful settlement will always prove futile, have given way to a faith widely held that something can be accomplished by the creation of agencies and machinery, which by their very existence may make it more probable that there will be a willingness to make use of them. The various states have with some degree of regularity appointed the members of the Permanent Court of Arbitration, which now number about one hundred and fifty, and they have not withheld the co-operation which has enabled the diplomatic corps at The Hague to carry on the necessary acts of administration. The existence of the Court has helped rather than hindered the conduct of arbitrations by outside tribunals following a different procedure, and I cannot see how any one might think that the world would have been better off during the past twenty-five years if the Permanent Court of Arbitration had never been created.

But the shortcomings of this body were appreciated at the time it was launched, and agitation at once began for creating a more

adequate international agency for the administration of justice. It was thought quite generally that arbitration differed from adjudication according to law, and hence it was argued that a new tribunal should be established which would be equipped to adjudicate international disputes by application of the established law. I think it is open to serious doubt whether the distinction between arbitration and adjudication was not pressed too far in the decade before the War. If all arbitrators endeavored to bring the disputant states to acceptable terms without reference to the law applying to their claims, and if all judges engaged in the inexorable application of definite and inescapable law without reference to what may be its practical consequences in the given case, the distinction might be a more important one. There may have been cases in which both of these things happened; in one important case it was widely thought that the arbitrators confined themselves to "splitting the difference." But in the great majority of cases, arbitrators who are usually lawyers feel themselves

bound by the applicable law if any law is clearly applicable, just as judges feel themselves bound to consider the consequences of the decisions which they reach. Yet if the distinction has often been pressed too far, it has nevertheless rendered the service of stressing the importance of having a fixed personnel of judges, trained in handling international cases, devoting their time to doing so, habituated to working harmoniously together, and available to be called upon at any time to deal with any case which may be submitted to them. Such a personnel was not provided by the Permanent Court of Arbitration, nor was the procedure of the tribunals worked out in such a way as to offer a chance for continuity and development toward judicial standards.

At the second Peace Conference at The Hague, in 1907, therefore, an attempt was made to organize a new Court of Arbitral Justice. The Permanent Court of Arbitration set up in 1899 was to be continued under the revised convention for the pacific settlement of international disputes, and

alongside it the Conference projected that there should be another body better manned for the development of judicial traditions. The project became far advanced, for there was general agreement on its basic idea and most of its provisions; but it proved imposs-ible to get agreement on any proposed method of electing the judges. Certain states feared that the limited number of judges would not include their own nationals, and the dogma of state equality precluded them from accepting any such situation. The representative of the Dominican Republic declared, for instance, that under no circum-stances could he agree to setting up an instit-ution in which San Domingo did not have equal representation with Great Britain. A project which lacked provision for the elect-ion of judges was included in the Final Act of the Conference, but later efforts to have it put into operation proved of no avail.

Nor did the International Prize Court, for the creation of which a convention was signed at the second Peace Conference at The Hague, meet with any better fate. In this

convention a very artificial method of choosing the judges was adopted, which might have worked for a time but which would almost certainly have handicapped the Court if it had ever been inaugurated. But it was the failure of the Declaration of London which made the establishment of the Prize Court impossible; the state of prize law, which has so largely been determined by the countries of large naval power, did not warrant such an attempt apart from the adoption of a new code of maritime law. Nor have the lessons about prize law which were learned during the War tended to revive the movement in favor of such a tribunal.

With the close of the War, the effort to establish a new court of justice was resumed, and the creation of the Assembly and the Council of the League of Nations afforded an avenue of escape from the *impasse* of 1907. In the Assembly adequate account had been taken of the principle of state equality, while in the Council adequate provision had been made for the special position of certain more influential Powers. It was a very happy

proposal of the Advisory Commission of Jurists which sat at The Hague in the summer of 1920, on the invitation of the Council of the League of Nations, that the judges of a new court should be elected by the Assembly and Council jointly. In most other respects, the plan proposed by that Advisory Committee was based on ideas already accepted in 1907. Account was of course taken of the great advance in international organization, for correlation between the work of the new Court and that of the Assembly and Council had been provided for in the Covenant of the League of Nations. In the changed situation after the War, it proved relatively easy to create the Permanent Court of International Justice, which now fills much the same function as that for which a Court of Arbitral Justice had been desired in 1907. Even the abortive efforts of one generation may help a later generation; but it seems very doubtful whether the new Court could have been created at the close of the War, at any rate with such extensive jurisdiction, if there had been no League of Nations.

The question often arises whether the Permanent Court of Arbitration is needed now that the Permanent Court of International Justice has come into being. At the present time the answer must clearly be in the affirmative. As a rallying-point for popular opinion which favors the peaceful settlement of disputes, the new Court has almost entirely superseded the old; and considering that only one dispute has been referred to a tribunal of the old Court since the new one began its work—and in that instance it was partly because one of the parties had not signed the protocol of signature of the new Court—I think it may be said that the large majority of cases which might otherwise have gone to tribunals of the old Court will probably go to the new Court in the future. But cases may still arise in which disputant states will prefer a reference to arbitrators of their own choice to a reference to the fixed bench of the new Court. Moreover, the members of the old Court perform an essential office in connection with the election of judges of the new

Court; acting as national groups, they must nominate the candidates who in the first instance are to be voted on by the Assembly and the Council of the League of Nations in electing the judges of the new Court. It seems important therefore that the old Court should be continued, and this view is vindicated by the recent accessions to the 1907 convention for the pacific settlement of international disputes, as well as by the prompt nomination of new members to fill vacancies in the old Court.

The volume of business to come before the Permanent Court of International Justice has been such as few people anticipated when the Court was established. In five years it has been called upon to give seven judgments and thirteen advisory opinions—a larger output than that of the Permanent Court of Arbitration in twenty-five years. Each of these judgments and opinions has related to some important difference which had arisen in such a way as to demand solution, and each of them has formed the basis for some kind of settlement of the difference to

which it related. If all of them have not been matters of first importance in the vexed state of international affairs during the past five years, and if one may say that important differences have arisen concerning which the Court's aid ought to have been and was not sought, still the fact remains that the Court has been so busy and so useful that it has thoroughly earned its salt. All of the judgments and opinions have not given universal satisfaction; the dissatisfaction of losing parties is to be expected, and criticism of the opinion in the Eastern Carelia case has been frequently voiced. But the work of such an agency is not likely to be free from criticism, ever, and both in the Foreign Offices and among the legal profession of the world the Court has already earned an enviable reputation and prestige.

One result of the satisfaction taken in the work of the new Court has been the additions to its jurisdiction by way of special clauses in treaties providing for the reference to the Court of disputes which may arise in the execution of the treaties themselves. It

has now become a common practice to insert such clauses in general multilateral conventions, and they are not infrequently to be found in bilateral treaties, particularly treaties of conciliation and arbitration. Such jurisdiction has been exercised by the Court in the Mavrommatis case, and in the case relating to German interests in Polish Upper Silesia. The opportunity for inserting such clauses has influence at times in making possible agreements which could not otherwise be reached—perhaps that may be said of the treaties constituting the settlement of Locarno. In this way the Court is fast acquiring an extensive compulsory jurisdiction which may come in time to be as important as the so-called compulsory jurisdiction conferred by the acceptance of the " optional clause."

I think it may be doubted whether the importance of giving the Court general compulsory jurisdiction has not been overemphasized. It is very easy here to be misled by the analogy to national courts. An individual is not consulted as to his

willingness to appear as a defendant in a national court; but there definite forms of action are available, a definite default procedure can be invoked, and a default judgment can be enforced by a marshal. None of these things is true of international courts at the present time, nor can its development be envisaged in the early future. In our present situation, therefore, though a state may have bound itself in advance to submit to the Court's jurisdiction, the effective realization of a solution by resort to the Court will almost always depend on the state's own co-operation. Moreover, provisions for compulsory jurisdiction which will hold water against an unwillingness to carry them out are difficult if not impossible to draw—certainly article 36 of the Court's Statute is not free from wide scope for varying interpretation. I share the hope of many people that the "optional clause" of the Court's Statute will be more generally accepted, but I think it is not a reason for undue discouragement that only twenty-five states have accepted it to date.

The usefulness of the Court is not to be judged solely by the amount of business which comes before it. Just as the existence of the Permanent Court of Arbitration increased the confidence of people that efforts to devise machinery for peaceful settlement were not all in vain, so the existence of the Permanent Court of International Justice has tended to increase the willingness to seek some pacific way out of international difficulties. With reference to cases which flare up and never come before the Court, it is important that in public discussion the possibility of recourse to the Court at once presents itself as an alternative to force. When the Greek Patriarch was expelled from Constantinople in 1924, the fact that the Council of the League of Nations agreed to the Greek demand and requested an advisory opinion of the Court, was a factor which made for easier settlement of that difficulty, and a settlement was reached before the Court could meet to respond to the request. The promptness with which resort to the Court is now suggested the moment any acute situation arises,

is another indication of the Court's influence. This has been quite noticeable in two instances during the past month—such a suggestion was made with reference to the Sino-Belgian dispute about the renewal of a treaty and with reference to the dispute between the United States of Mexico and the United States of America about the effect of certain Mexican laws on the property of American citizens. As the existence and successful functioning of national courts tend to increase a local community's confidence in the prevalence of law and order, so the existence of the Permanent Court of International Justice tends to increase our sense of security in the international community.

But I find one conception very prevalent which seems to me to exaggerate the importance of the Court's influence. It is quite generally supposed that an adequate Court will directly obviate a resort to war. Some of my fellow-countrymen who are eager to have war "outlawed," appear as eager to have a court given larger powers with a view to the prevention of war. The impression

also exists that if such a court were created and international law were codified, there would be no need of other agencies of political adjustment to be maintained by the international community. I think these views do not take sufficient account of the limits on judicial action. I can hardly imagine, for instance, that any of the nineteen cases which have come before the Permanent Court of Arbitration, nor that any of the disputes which were the subjects of the seven judgments of the Permanent Court of International Justice, would have led to war if those institutions had not existed. It is quite unthinkable to me that the United States and the Netherlands might have fought about the question which is now pending before a tribunal of the Permanent Court of Arbitration—the question of the sovereignty over the island of Palmas in the Philippine Archipelago. Nor is it possible for me to believe that Great Britain and Greece might have gone to war over the case of the Mavrommatis Concessions in Palestine which has been successfully

adjudicated by the Permanent Court of International Justice. A long series of such questions might produce strained relations between two countries which, combined with serious conflicts of policy, would lead to war; but it seems safe to say that the great majority of cases susceptible of being litigated in an international tribunal will be of the kind about which nations would never think of fighting. This is not to say that the successful handling of such cases is not important—in the past they have often served as pretexts, and they can always disturb the harmony which we would have to prevail in the international community. But we must see the rôle of courts as it is, and the truth seems to be that the serious international differences cannot be pressed into legal equations. I think this may partly explain the reluctance of certain states to accept the compulsory jurisdiction of the new court.

It is the more important, therefore, that alongside a court the international community should have other agencies to deal with the disputes which only lend themselves to

political adjustment. In a conference like the Council of the League of Nations, the same limitations do not circumscribe action; discussion is not restricted to such precise issues; differences may be narrowed, but they do not have to be crowded into legal formulæ; the methods of solution available are more varied. Politicians and diplomats accustomed to responsibility are more likely to have the necessary adaptability than judges who have spent their lives in chambers or at the bar. I think it is clear therefore that the world needs such agencies as well as courts, and in the long run I think there is more to hope for from them than from courts, in the prevention of war.

It would be extremely unfortunate, however, if there were no co-operation between the Council of the League of Nations and the Permanent Court of International Justice. One of the happiest innovations of the Covenant of the League is the provision in Article 14 that "the Court may give an advisory opinion upon any dispute or question referred to it by the Council or Assembly." The language of

the French text seems to be more mandatory, but the practice which has now become established has robbed the controversy about the duty of the Court to give advisory opinions of much of its importance. The innovation was not viewed without suspicion in the beginning, but I think its value has been amply vindicated by the experience of these five years. In fourteen instances, the Council has requested the Court to give advisory opinions; in six instances it was because the Council was seised of a dispute of a generally political character, in the course of which legal questions arose on which the assistance of the Court was needed; in four instances it was because difficulties had arisen in the work of the International Labor Organization which necessitated an authoritative determination of its constitutional law; in two instances it was because disputing states sought the Council's aid in the solution of distinctly legal questions; and in one instance, it was because of the insistence of a single state which had sought in vain other methods of solution of a difficulty with its neighbor.

I think the Mosul case, to which I referred in my last lecture, is very interesting in this connection: when the Council came to consider the report of its commission sent into the Mosul territory, it found that the representatives of Turkey challenged its jurisdiction on legal grounds, and a serious question arose as to the requirement of unanimity. Without the possibility of having these matters settled at the time, and settled in such a way as to give confidence to the disputing states, the usefulness of the Council might have been very seriously impaired. The Court's opinion was very promptly given, and it enabled the Council to proceed with the settlement of a question which might very well have led to hostilities. This, then, seems to be a contribution which the Court can make to the maintenance of peace. It can supplement the Council, it can increase the effectiveness of political deliberations on disputes which might lead to war, it can clear away the legal tangles which so frequently stick out in the foreground of disputes in which the real issues are obscured in a

political background. The scales are never too heavily balanced in favor of peace, and we cannot have too many agencies at hand to assist in keeping the balance on that side.

The objections which have been made to advisory opinions do not seem to me serious, though in the United States of America they have achieved some importance. It is said that the giving of advisory opinions is not a judicial function, and that this feature of its jurisdiction deprives the Court of its character as a real court. If the question be viewed historically, it is not to be denied that such jurisdiction has long been exercised and is still exercised by the courts of many countries; the advisory opinion about the so-called "Irish Treaty" given by the Judicial Committee of the Privy Council in 1924 is a striking example. If the question be viewed analytically, judiciality would seem to exist where there is a precise question before a court, where a contest with reference to it is actually in progress, where a public hearing is held or an opportunity for such a hearing is given,

and where a reasoned judgment is arrived at after due deliberation. By either test, the jurisdiction as it is exercised by the Court would seem to fall quite clearly within the limits of the judicial function. It is also said that it is open to the Court to give secret opinions. Certainly that is not precluded by the Court's Statute, but it is clearly excluded both by the Court's rules and by its practice. It is further said that this feature of the Court's jurisdiction renders it subservient to the Council and makes it but a political agency; but the Court has demonstrated its independence by refusing to give the opinion requested in the Eastern Carelia case.

During the past year, the Government of the United States of America sought to adhere to the protocol of signature of the Court, with various reservations, the important one of which provided that without the consent of the United States, the Court should not "entertain any request for an advisory opinion touching any dispute or question in which the United States has or

claims an interest." The object of this reservation was stated to be to secure for the United States a position of equality with those of the signatories that were Members of the League of Nations and represented on the Council. But it has never been determined whether action by the Council requesting an advisory opinion must be taken by unanimous vote, and even if this doubt were to be resolved in favor of requiring unanimity, some inequality might still exist if the power to prevent the Court from entertaining a request were conceded to a state which is not represented at meetings of the Council and which undertakes no responsibility for assisting in the solution of the question concerning which an advisory opinion is to be requested. The conference of signatories which met in Geneva last September was therefore reluctant to make this concession, and the result to date is that no action seems to be possible at the present time to enable the United States to join in maintaining the Court. From a general point of view, it would seem desirable that some

way should be found for non-members of the League to share in maintaining the Court, in order that their resort to it may be made more probable. This is particularly true in the case of the United States of America, for the frequent use of the Court by other American states would seem to be in some degree conditioned on the support of the United States. The solution of this problem calls for statesmanship of a high order.

In some quarters an objection to the Court has been based upon the fact that it is not backed by any force which will compel its judgments to be observed. Again it is the analogy to national Courts which suggests that every court must have somewhere in the background a marshal who can execute its judgments ; but it is a false analogy which would assimilate individuals and public bodies in this respect. Nowhere perhaps is a more illuminating experience to be found on this point than in the history of the Supreme Court of the United States of America. In the early days of that

republic, when the new Supreme Court had given a judgment against one of the federated states, an unsympathetic President described the situation by exclaiming, "Chief Justice Marshall has given his decision, now let him enforce it." When in more recent times a dispute arose between the two states of Virginia and West Virginia, and the Court had given a large money judgment against the latter, the question squarely arose how it was to be enforced; and though the Court repeatedly asserted its power, it succeeded in discovering successive expedients which prolonged the litigation until a settlement was finally reached. Like the Supreme Court of the United States, the Permanent Court of International Justice really depends on public opinion for its sanction. The Covenant does mention in Article 13 proposals to be made by the Council in the event of a failure of any Member of the League to carry out a judgment, and the sanctions of Article 16 may be applicable to a resort to war against a Member which complies with a judgment of

the Court. But it would be a rare case in which such provisions would be invoked, and in the main I think that the international community must content itself with that moral pressure which will usually be exerted to see that the Court's judgments are not flaunted.

For some time past, a proposal has been discussed, especially at meetings of the International Law Association, that an international criminal court should be constituted. In its latest form the proposal is that either a separate criminal court should be set up or criminal jurisdiction should be conferred on the Permanent Court of International Justice, and a reference to it may not seem inapposite in connection with the foregoing discussion of sanctions. It is the kind of proposal which so frequently appeals to people who have a fondness for symmetry. We have criminal courts in our national communities; why not also in the international community? The short answer would seem to be that we have no international criminal law for such a court to apply.

It is frequently said that piracy is a crime under international law; there has been some disposition to say the same of the slave trade on the high seas; and in 1922 the Washington Conference on Limitation of Armaments elaborated a treaty which would have made the violation of certain rules relating to the use of submarines punishable "as if for an act of piracy." But the Washington treaty is not in effect and may never be brought into effect, and piracy has now grown so rare that it would not seem to call for the setting up of any new agency. Nor is it easy to see the need for any tribunal to which such general power might be given. If the attempt in the Covenant to define and discourage aggression cannot be realized by political action, it seems improbable that assistance can be had from any enlargement of the criminal law. The lamentable fiasco of the attempt of the Allied Powers to bring to punishment certain Germans accused of violation of the laws and customs of war, in accordance with provisions in the Treaty of Versailles (Article 228), should place us on

our guard against a too ready acceptance of the notion that any crimes may be punishable by international authority.

It seems unnecessary to deal in this connection with the history of various attempts to establish international courts of a local jurisdiction; but one such attempt is perhaps deserving of mention. In 1907, the governments of the five Central American Powers elaborated a convention "for the purpose of efficaciously guaranteeing their rights and maintaining peace and harmony unalterably in their relations, without being obliged to resort in any case to the employment of force." This convention established a Central American Court of Justice, which functioned with somewhat questionable success for the period of ten years during which the convention was in force. But the convention was not renewed when it expired in 1918, and the Court has not since been re-created. It was a local court in the sense that its jurisdiction covered only controversies among those five states and controversies between their governments and individuals submitted

to it by common accord. Its whole history was troubled, and its experience has not illuminated the approach to many problems of the wider world community. Nor did the Central American Powers in their conference in Washington in 1923 attempt to revive the idea of a permanent court; instead they provided for commissions which will proceed along very different lines.

It is also of interest to note that a suggestion has recently been made, and will come before the Commission of Jurists set up by the Conference of American States, when it meets, that a Pan-American court of justice should be created to deal with disputes among the states of North and South America. The delegation of Costa Rica presented such a plan to the Santiago Conference in 1923, and the suggestion has been elaborated in a project since prepared by the American Institute of International Law. These proposals proceed on the assumption that there exists a special body of American international law, and that the American states have an interest in handling

their common legal problems independently of the co-operation of states in other parts of the world. While it is difficult to believe that they are destined to meet with much success in view of the co-operation of so many Latin-American states in the League of Nations, recent events in South America may have worked in that direction, and the uncertainty of the development of the policy of the United States known as the Monroe Doctrine may make for a favorable atmosphere for their consideration by the American states. A sharp division between the Western and Eastern hemispheres might possibly have been made a century ago, but with the establishment of so many lines of communication in both directions across both of the oceans that separate them, it would now seem very late in the day for such a division to be made. Moreover, in the two plans which have been published, the proposals for electing the judges of such a separate tribunal are very artificial, for the escape from the equality of states conception is more difficult in America than in Europe.

It is hardly more than a generation since statesmen began to give serious attention to the needs of our international community for courts of arbitration and of justice. In that short period, we have had established both the Permanent Court of Arbitration and the Permanent Court of International Justice. Each of these institutions has been more successful than most of us would have predicted when it was established. In twenty-five years of the one, eighteen arbitrations have been handled, and a nineteenth is now pending; in five years of the other, seven judgments have been handed down and thirteen advisory opinions. A greater service still has been the general encouragement they have given to the extension of pacific settlement, and the confidence they have inspired in the efficacy of effort directed to that end. If they are not likely to be called upon to handle those more troublesome disputes which might lead to war, and if the view of them as substitutes for war may be somewhat exaggerated, it is nevertheless true that they form an essential part of the

international co-operation of our time. The Permanent Court of International Justice is a valuable supplement to the Council of the League of Nations, and its advisory opinions have helped it to win a prestige which augurs well for the future.

But perhaps the most significant result of the work of such agencies will be in their contribution to the development of international law—a subject which I shall reserve for a final lecture.

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IV

The Current Development of International Law.

In the previous lectures in this series, I have attempted to account for the growth of international co-operation during the course of the last one hundred years, and to point out the service which is being rendered to our modern international community by the co-operation of various states in agencies established both before and since the World War. It was in continuation of a process of organization begun soon after the middle of the last century that the League of Nations was inaugurated in 1920; and on the record of the past seven years, it seems possible to say that this method of co-operation has brought the world much nearer to adequate provision for protecting those interests which all peoples have in common—not only the interest in the maintenance of

peace, but also the interest in an intelligent handling of the many complicated questions of our daily life which demand patient and continuous attention. It was in continuation of efforts begun a generation ago at the first Peace Conference at The Hague that the Permanent Court of International Justice was established in 1921; and the very promising start of its career during the past five years seems to warrant the belief that a great extension of law and order has already been, achieved, and that as a supplement to the Council of the League of Nations the Court may be expected to render signal service as a guardian of the world's peace. It now remains for us to consider some of the phases of the current development of an international law which may meet the needs of our world society more adequately than they have been met by the law of the past.

Before the beginning of those changes in our industrial life and in the methods of transportation and communication which were destined to revolutionize international society, the body of doctrine and received

tradition which had been developed during the sixteenth and seventeenth centuries on the inspiration of Grotius may have served with some degree of adequacy the needs of a limited community of states. As was pointed out by my friend and colleague, Professor James W. Garner, in the Tagore Law Lectures for 1922, that "system of international law was of European origin and until near the end of the eighteenth century there were no states outside Europe to which its rules applied."[1] One of the most important developments of the nineteenth century was the universalization of the system, and the abandonment of the narrow assumption that international law was applicable only to the so-called Christian states. If there are still certain communities which do not possess the full protection of international law, we have at any rate abandoned the theory of its connection

[1] Garner, Recent Developments in International Law (1925), page 23. See, however, Pramathanath Bandyopadhyay, International Law and Custom in Ancient India, Calcutta, 1925.

with a particular religion or a particular kind of civilization.

But throughout the nineteenth century, the development of international law was impeded, it was prevented from keeping pace with the growth of the international community and indeed with the progress of juristic science in general, by the prevailing philosophy as to its nature and purpose and by lack of agencies which could devote to it their consistent effort. The law of nations was made to depend upon the law of nature, and to partake of its unchangeable and unmalleable qualities. Only two generations ago, a distinguished writer on international law in my own country introduced his treatise with the explanation that "the creator of man has implanted in his nature certain conceptions which we call rights, to which in every case obligations correspond";[2] and but recently important bodies have approached the subject with an apparent desire to discover somewhere outside the reach of

[2] Woolsey, International Law (1860), page 1.

man fundamental principles which must govern international life whether we like them or not.[3]

Almost any modern treatise on international law will show traces of the philosophy of natural rights, which by its rationalization of an "anarchy of sovereignties" has latterly had the anti-social effect of increasing the difficulties of organizing the society of nations under a universal law. That philosophy continued the emphasis on national independence at a time when we have so needed to recognize nations' growing interdependence. It operated to kill the confidence of jurists in themselves and in the efficacy of juristic effort.[4] It served to content them with a thesis, based upon the

[3] See the Declaration of the Rights and Duties of Nations, adopted by the American Institute of International Law, at Washington, January 6, 1916.

[4] "The nineteenth century achieved relatively so little in international law" because "the jurists of the last century, had no confidence in themselves *qua* jurists." Roscoe Pound, in Bibliotheca Visseriana, I, page 88.

doctrine of evolution, that progress could only come as an automatic process through the unfolding of the ages. But I think these early years of the twentieth century have made us dissatisfied with the mere lengthening and broadening of past heritages, and a determination is growing that we must strike out along new lines of our own drawing, to work our own juristic salvation. I am confident of the prediction with which Professor Garner closed his lectures four years ago, that "more and more there will be a shifting of emphasis from the rights of states to duties; from individual to collective responsibility; from national sovereignty to international control; from independence to interdependence, and ultimately the law governing the relations of states will tend to become less and less international and more and more supernational."[5]

This must not be taken to mean that I

[5] Garner, Recent Developments in International Law (1925), page 818.

place an under-estimate on the efforts made during the past decades to improve the rules of international law. If such efforts have not been attended with as great success as we could have wished, they have had some significant results and have served to keep alive our detérmination and desire for improvement. In an era when so many Western nations were expanding and when so much attention was being given to the increase of military and naval establishments, it was quite natural that many of these efforts should have been devoted to changss in the laws stated to govern the conduct of warfare. In 1856, the Congress of Paris adopted important regulations dealing with privateering, blockade and the immunity from capture at sea of private property on neutral vessels, which have since been recognized to exist by states not there represented. In 1864, the Conference of Geneva drew up a convention for the amelioration of the condition of the wounded in war, which expressed the humanitarian tendency of the time. In 1874, the representatives of fifteen European

states met in conference at Brussels and attempted to codify the rules of international law governing the conduct of war on land, but the Declaration of Brussels was not ratified. Much of the time of the two Peace Conferences at The Hague was given to a consideration of the laws of war, and eleven of the thirteen conventions adopted in 1907 related to them; but the effort to supplement this body of new law with the Declaration of London of 1909, relating to naval warfare, was doomed to failure.

The experience gained during the World War has probably undermined the confidence of many people in the utility of such efforts. War psychology does not encourage a respect for the restraints of law, and a nation which feels that it has its back to the wall is not likely to forego the advantages seen by its military experts in a certain course of action, even though it be forbidden by some formal enactment. The doctrines of *rebus sic stantibus* and of retaliation, and the vagaries of opinion controlled by the censorship of news, stand ever ready

to neutralize the stirrings of conscience on such occasions. People at war are eager enough to find a law that will restrain their enemies, but they are no less supple in their ability to discover reasons why it does not restrain themselves.

The end of the War seems to have been followed by a revulsion against any continuance of these efforts to legislate for the conduct of war. It is true that the Advisory Committee of Jurists, meeting at The Hague in 1920, adopted an ill-timed recommendation that a conference be held to formulate and approve " the modifications and additions rendered necessary or advisable by the war". Such a conference at that time, from which Germany and Russia and Turkey would almost certainly have been excluded, would have been little short of mockery. At the Washington Conference on Limitation of Armaments in 1922, a convention was drawn up concerning the use of submarines and gases, but it has never been ratified. The Washington Conference also set up a commission of jurists to consider whether "existing

rules of international law adequately cover new methods of attack or defense resulting from the introduction or development, since the Hague Conference of 1907, of new agencies of warfare" ; but the mandate of this commission was afterwards restricted, and its report sleeps to-day in the archives of the Foreign Offices. The Committee of Experts on the Progressive Codification of International Law, set up by the Assembly and Council of the League of Nations in 1924, has so far adjourned consideration of the problems connected with war and neutrality, and the whole tendency to-day seems to be opposed to continuing the effort to develop the laws of war. Perhaps, these threads have been dropped but temporarily; the fissures caused by the excesses of the War are not yet well-healed, and the professional military and naval men now seem disagreed as to the instrumentalities which might be used in a future war. But for the present, at any rate, it seems that attention can more profitably be given to the development of the law of peace and a law which will better guard the peace.

It is very disappointing that so little common action was directed to legislative changes in the general law of peace during the nineteenth century. There are a few notable instances, such as the pronouncement of questionable soundness concerning the binding nature of treaties, made by the London Conference of 1871. But for the greater part of the century, there was no machinery available and no method accepted for legislative activity. The community of states was thought to be governed by law, but it lacked any legislative agencies which could attempt to fashion the law to meet its needs. Only as some acute situation developed, or as some peace treaty had to be made, was it possible for statesmen to meet and to give their attention even incidentally to some glaring legislative need. While world society was in the throes of revolutionary changes, it lacked both a legislature to make new law and a court to apply it after it was made. But in the latter half of the century, the growing frequency of bilateral treaties and of general conferences

offered some relief. The various international unions were established by a process of legislation by conference, and the multipartite treaties of that period deserve to rank as an important part of international law. Many of the formal writers have not considered them as such, but have stuck to the classic materials and neglected them altogether. Indeed one may read an edition of Hall's treatise on international law, prepared within the last three years, and remain quite ignorant of the fact that these unions even exist. But there is a growing disposition to-day to study all of the jural materials of our world society, and I hope the day is not far distant when all of these multilateral conventions will be fully received into our treatises. Certainly we in the universities have no excuse for neglecting them. Unless we teach the living law, it were better that we should not teach at all.

I think one may sense the influence of international organization on the growth of international law by turning to a book

published in America in 1872. Its author, David Dudley Field, had been prominently identified with the codification movement of his time ; and impressed by the changes in international communication in which his brother, Cyrus W. Field, had taken part by laying the first successful cable across the Atlantic Ocean, he undertook to prepare the "Outlines of a Code of International Law." One part of his book was devoted to suggested "uniform regulations for mutual convenience," and those regulations covered the topics of shipping, imposts, quarantine, railways, telegraphs, postal service, patents, trademarks, copyrights, money, weights and measures, longitude and time, and sea signals. Those matters were practically all outside the scope of the international law existing at the time, for Field wrote before the great legislative activity which began with the establishment of the Universal Postal Union in 1874. Yet before the end of the century, most of them had been made the subject of legislation, and Field's list is now almost an index to the great multipartite

law-making treaties which came into existence before the War.

With the establishment of new machinery for conference and the development of the conference method in the League of Nations, the period since the War has been one of great legislative activity. More important multipartite treaties were made in the first five years after the War than in the fifty years which had preceded it, and as a consequence we have to-day a vast body of new international legislation which is of constant application in the daily lives of many nations of the world. The Paris Peace Conference, itself, was regarded by many people as a golden opportunity for enabling international law to catch up with international life, and some of the legislation inspired at Paris related but remotely to liquidating the problems created by the War. Soon afterward, and even before the Treaty of Versailles came into effect, the first International Labor Conference was held at Washington, and whereas but two conventions for the international protection of

labor had resulted from a generation of effort before the War, in the past seven years twenty-three conventions have been adopted by the International Labor Conference and most of them have been widely ratified. I know you are proud of the fact that India has been one of the leading states in the acceptance of this international legislation. The legislative process has been actively continued in many different fields by conferences held under the auspices of the League of Nations, and I am inclined to regard it as being as significant as any of the results of the establishment of the League of Nations. The most recent product of this activity is the Slavery Convention, which was drawn up at the Seventh Assembly in 1926, and signed on behalf of India and some twenty-four other states. This convention binds the signatory states to undertake the suppression of the slave trade and to bring about progressively and as soon as possible the disappearance of slavery in every form. Such legislation must be of special interest in India, in view of the

efforts now under way to abolish the vestiges of slavery in Upper Burma.

If it is not improper to speak of these numerous international conventions as international legislation and as a part of international law, it must nevertheless be borne in mind that they have not been ratified by all states, not even by all Members of the League of Nations, and no powers have been delegated or assumed which would make them binding on states which have not ratified them. If one were using the term legislation in the sense in which it applies to the acts of a national parliament, of course it would not be apt in this connection. But international legislation has always been different. No one would think of stating the international law applicable to international rivers without reference to the rules adopted by the Congress of Vienna in 1815; yet but few states were represented at that Congress, and the rules have never been formally binding on all others. Similarly the Declaration of Paris of 1856 was promulgated by a few Powers, but its influence has extended to

a wider circle ; almost as a matter of course it was adopted by the belligerents in the Spanish-American War of 1898. Likewise, reference is commonly made to the formulations of the Hague Peace Conferences by Powers that have never been bound by them as a result of formal ratification. It would be improper to treat all multipartite conventions as having the same value as law-making measures ; but it would be equally improper to deny them any value as such.

Disappointment was expressed by the Seventh Assembly that these multipartite conventions resulting from League of Nations conferences had not been more generally ratified. Perhaps delegates sent to international conferences sometimes act in advance of the views of their own governments. The participation of parliamentary bodies in the exercise of the treaty-making power in many countries has been a factor which has made for delay in ratification, where conventions have not been rejected altogether. But doubtless the chief reason is that in most countries international problems which are

not urgent must yield place, in the appeal for official attention, to domestic problems which are more likely to affect government stability. It is not easy therefore to see a remedy for this situation. It is important that a multipartite convention should contain some provision looking to the possibility of its revision from time to time, and the inclusion of such provisions is now becoming an established practice. Perhaps some method can be devised for keeping officials in various governments more continually mindful of the problem of ratification—the Seventh Assembly invited the Council to call for a report every six months on the progress of ratification ; but it is not a situation in which any simple device is likely to be of much service. We may have to do a good deal of stumbling before we arrive at more effective methods.

The growth of international law since the War has also included a rapid development of the law of international arbitration. Not only in the number but also in the content of arbitration treaties, a great gain has been

made. Many nations have discarded the formula reserving questions pertaining to national honour and vital interest, and have made all-inclusive treaties of arbitration. The lead has been taken by Switzerland and the Scandinavian states, and it has been followed in the treaties drawn up at Locarno, which came into force when Germany was admitted to membership in the League of Nations last September. Only a month ago, an important arbitration treaty was signed on behalf of Germany and Italy. A current usually flows in but part of a stream, and there are still instances of treaties which follow the pre-War model; for instance the treaty between the United States of America and Sweden, signed in 1924. But the existence of the Permanent Court of International Justice has proved a great boon to arbitration, and more all-inclusive treaties seem probable for the future. Various groups of states have also created conciliation commissions in the last few years, inspired in some instances at any rate by the resolution of the Assembly of the League of Nations, of

September 22, 1922. Such increase in the machinery for arbitration and conciliation has added new importance to the law of arbitral procedure, and a recent book on that subject [6] furnishes a guide which has long been needed.

If some lawyers are tempted at times to under-estimate the importance of these recent legislative developments of international law, I take it that Indian and Anglo-American lawyers will not be tempted to place light estimate on the possibility, now opened to us for the first time by the creation of the Permanent Court of International Justice, of our getting in time a new body of intertional case-law. Throughout the nineteenth century, the judicial development of international law depended largely on the decisions of national courts, which were seldom separable from the commitments of national policy. There were the decisions and awards of various arbitration tribunals and claims

[6] Ralston, The Law and Procedure of International Tribunals (1926).

commissions, some of which were notable for their influence, but they never formed a volume of developed precedents. The more consistent decisions of single judges in national courts, such as Lord Stowell in England and Chief Justice Marshall in America, did much to determine the course of the development of international law—particularly when such judges had a faculty for inventing quotable phrases. Nor was there a cumulation of a consistent case-law in the awards of the tribunals of the Permanent Court of Arbitration—the cases were too variant and infrequent, and the personnel too changing. But with the creation of the Permanent Court of International Justice, we may hope that a new opportunity has been created. The Statute of the Court provides (article 59) that its decisions have "no binding force except between the parties and in respect of" the particular cases decided. If this is an enactment of the civil law as opposed to the common law conception of the force of precedents, still it does not forbid the Court's following and citing its previous decisions.

Already, this has been done a number of times ; and if the record of the past five years can be continued for another generation, I think there can be little doubt that in a relatively short time we shall have at hand a body of precedents which will be of inestimable value. This may be one of the chief advantages in having a permanent group of trained judges devoting their time to the international administration of justice. If I am too sanguine in my expectations, it is nevertheless clear that scholars a generation hence will be assisted by jural materials which we do not have to-day, and for the lack of which we are clearly handicapped. It will always be true that there is a great variety in the international cases which actually come to adjudication, just as there is a similar variety in the cases decided by national courts.

The legislative process which I have described, and the evolution of case-law which seems in prospect, may still leave parts of the field of international law unaffected for some time to come ; and possibly there will

be lacunae in our legal system where needs will go unfilled and where opportunities for further progress will be missed, if other approaches are not made. It is important, therefore, that some more comprehensive effort be undertaken, and it is widely insisted that such effort should take the form of a codification of international law. The term codification seems to be very differently understood by different people. To some it has come to connote the erection of a great bulwark against war. It has seemed axiomatic to many laymen that there is nothing for an international court to do unless it is furnished with a code which it may administer and apply; and because we have no comprehensive code at the present time, it has been assumed in some quarters, not always by laymen surprisingly enough, that the Permanent Court of International Justice is acting in a vacuum. Such a view takes scant account of the many multipartite conventions which I have described, and of the great increase in the number of other treaties which is indicated by the registration

of more than thirteen hundred current treaties with the Secretariat of the League of Nations during the past seven years. But it is urged that the enactment of a code is a *sine qua non* of the usefulness of the Permanent Court of International Justice, and people not infrequently jump to the conclusion that with a code and a court to apply it there need be no more disputes which might lead to war. On the other hand the very term codification conjures in some minds visions of a structure in the air, and of impracticable attempts to foist on the world an artificial system of mondial law which would have no relation to the facts of international life. Curiously, this latter view seems to prevail more generally in countries where more or less complete codes of national law are in force. The former group have come to speak of codification as the key to the temple of peace; the latter group have been so frightened by the term that they have lost all willingness to join in any effort to which it may be applied. Now I think it is clear that both of these views are extreme. The very euphony

of the word codification has led to its application to many varying sorts of processes, and perhaps some differentiation of them will show us a better approach.

Codification is employed, first of all, by people who are very dissatisfied with our present law, who are frequently not too conversant with the kinds of development which we have been considering, and who desire to see new legislation which will effect certain reforms. In latter years, a reform widely urged is the so-called outlawry of war. That is an end which I think most of us would like to realize, but the nature of the legislation which would achieve it is not so clear. A mere fiat might help, but few of us would expect it to execute itself. Certainly a great advance was made in the Covenant of the League of Nations when a certain procedure was prescribed as a condition precedent to the beginning of hostilities. In 1924, a further effort in this direction was made when the Protocol of Geneva was drawn up by the fifth Assembly of the League of Nations; but that

instrument proved to be either in advance of the time, or incompatible with the ambitions and fears of certain Powers. The success of Locarno then removed the greatest pressure pushing for such a measure, and though we may come back to it, especially if the anticipated disarmament Conference should be a great success, this attempt at framing a comprehensive legislation to outlaw war has for the present been abandoned. Codification in this sense is not now on the tapis. Nor does it seem practicable to attempt a comprehensive legislative effort with reference to such subjects as are now being dealt with by separate multipartite conventions. They require the attention of many kinds of experts, and cannot be entrusted to lawyers upon whom the task of codification usually falls.

In a second sense in which the term is used, codification refers to the process of introducing uniformity into the national laws of various countries, covering fields in which such national laws already exist. Thus interpreted, much of the output of the

International Labor Conferences may be explained as codification, for many of the twenty-three recent labor conventions have as their chief purpose the harmonizing of various national legislations so that one country may not possess advantages over its industrial competitors gained at the expense of industrial laborers. In this way also, the efforts of the International Maritime Committee have been most fruitful; its convention on immunity of state-owned ships from foreign local jurisdiction, which was signed at Brussels on April 10, 1926, by the representatives of seventeen states, is a striking example of the success of its persistent efforts. The President of the Committee has recently assured us that "the time is not far off when by far the greatest part of the law relating to maritime commerce and ship-owning will be uniform."[7] The conventions signed at the several Hague conferences on private international law introduced a measure of

[7] M. Louis Franck, in 42 Law Quarterly Review, page 25.

uniformity into certain parts of the private law of various European countries, but the movement to codify private international law in this way has met with little favor where the Anglo-American system of law prevails. On the continent of North America, where more than fifty-seven separate jurisdictions apply local law, considerable progress toward uniformity has been made through the work of the National Conference of Commissioners on Uniform State Laws in the United States, and the Conference of Commissioners on Uniformity of Legislation in Canada. But there are limits to what can be done, and indeed to what it is desirable to do in this direction, and such codification of international law is not likely to satisfy the popular insistence of the present time.

In a third sense, the term codification is used to cover a re-statement of the principles of our classic international law as it is now applied in the modern world, its adaptation to changed conditions in some respects, and its extension to fill some of the lacunae which may be found to exist. Such an effort

is likely to prove far removed from a dealing with the chief subjects of such serious international controversy as will endanger the world's peace, and if it succeeds even in generous measure it will probably give but limited satisfaction to the non-professional people who in recent years have looked to codification for relief from war. But systematic development of this sort seems essential at this time if international law is to follow the course of other changes in world society, and agencies are now at work which promise that the need is not to be neglected.

In 1924, the Assembly and Council of the League of Nations created a Committee of Experts for the Progressive Codification of International Law, which is directed "to prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be the most desirable and realisable at the present moment," and "to report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing

eventually for conferences for their solution." The personnel of the Committee represents the main forms of civilization and the principal legal systems of the world, and I think you will agree that it includes a worthy representative of India in Sir Abdur Rahim. Two meetings have already been held, at the first of which in 1925 eleven topics were selected for investigation and consideration, and sub-committees were constituted for their exploration; and at the second of which in 1926, three of these topics were eliminated, and seven questionnaires on others were prepared for circulation to the governments of the various states, whether Members of the League of Nations or not. I think opinion is not unanimous as to the beginning which has been made, and the work of the Committee did not escape criticism at the Seventh Assembly last September. It remains to be seen whether the method of questionnaires adopted will produce helpful results; some of them put too much burden on the Foreign Offices which must consider them, and by presenting for criticism views

and drafts which do not represent the result of a careful preliminary hammering by various minds the Committee may seem to have prematurely sought the expression of responsible opinion. Nor has the line always been sharply drawn between the limited functions of the Committee and those functions which must eventually devolve on diplomatic conferences if legislative activity is later undertaken. The Committee's deliberations may also occasion some disappointment to the over-sanguine because of a vein of pessimism which has at times cropped out; after enumerating several serious questions as to the law of extradition, for example, questions which would surely lend themselves to common solution by determined effort, it was decided that the difficulties were so great that nothing should be attempted and that subject was dropped from inclusion in the Committee's list. But these criticisms are not so serious that we should blind our eyes to the advance which the mere existence of such an agency represents, nor to the prospect which it opens up. We have learned

from the experience of the International Maritime Committee that progress in this field demands long and patient effort. The greatest codification effort of modern times, that which resulted in the German Civil Code, occupied many jurists for a generation. For my part I should like to look forward to a continuance of the work of this League of Nations committee for a quarter of a century, and if it can go on so long I do not doubt that some important achievement may then be set down to it, and I shall then wish it be continued for another period equally long.

Another somewhat similar effort which is under way owes its inception to the creation of an International Committee of Jurists by a convention adopted by the Conference of American States which met at Rio de Janeiro in 1906. Previously, at the Conference in Mexico in 1902, a convention had been signed for setting up a committee of five American and two European jurists to draft a code of international law, but it had not been put into effect by ratification. Delay was experienced in the ratification of the Rio de Janeiro

convention also, and the Committee did not meet until 1912. Its work was then interrupted by the War, and though it was reconstituted at the Santiago Conference in 1923, it has not yet held a second meeting. But the executive committee of the American Institute of International Law, acting on the invitation of the Governing Board on the Pan-American Union, has prepared a series of thirty projects of international law conventions, which are to be submitted to the Committee when it meets. Until these are adopted as a basis of the Committee's work, they may be thought to occupy a position somewhat analogous to that of the resolutions of the Institute of International Law, which though they have had wide influence have seldom formed the basis of the action of official international conferences. But it is interesting to note the variety of subjects with which the thirty projects deal, and their general emphasis on co-operation "to insure the maintenance of peace and to foster the spirit of mutual trust." My own opinion would have been that the projects are too

largely devoted to an attempt to stereotype the philosophy of the international law of the past, a dangerous thing for any generation to undertake. It is notable, however, that unlike the conventions adopted by the Peace Conferences at The Hague, all of these projects deal with the law of peace, the declaration being proposed that "the American Republics are more interested in regulations concerning the peaceful relations of the nations and neutrality than in those concerning war, in the hope that the latter has happily and forever vanished from the American Continent."

With these efforts under way, I think that we may hope that the term codification will be given a practical and realizable content during the coming generation and that steps will be taken which will appreciably further the development of the law of nations. We cannot look forward to the adoption within that period of a global code which will compress all international law into the same kind of dimensions as your Indian Penal Code. We cannot know that

the present lines are those which may most usefully be followed. We cannot hope that the coming history will contain no records of failure. We can hardly entertain any illusion that the success of this process will appreciably diminish the likelihood of war. I can imagine that all of the topics selected by the Committee of Experts for the Progressive Codification of International Law might be made the subjects of conventions, and all the projects of the American Institute of International Law might be signed and ratified, without having very profound influence for the maintenance of peace. But I think we shall have travelled far if we can replace the juristic helplessness of the nineteenth century with a twentieth century faith in the efficacy of conscious effort. The tasks that lie ahead of us challenge us to mobilize the best of our professional intelligence. Fortunately they do not demand the world's passing through another dark decade such as that which began in 1914. Our willingness to pursue them should not depend on pressure coming from the vagaries of popular clamor. Our

generation has a romantic opportunity to make the twentieth century more significant in the history of international law than the seventeenth century became as a result of the work of Grotius.

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What then is the importance of current international co-operation? With what perspective shall we view it, and what vista does it open? I have attempted to trace the growth of a new world society as a consequence of the far-reaching changes effected in the lives of all peoples during the course of the past century. I hope I am not wrong in finding the world of states of to-day very different from the world of states as it existed before there were any railroads, any steamships, any telegraphs, any telephones, and before mechanical invention had revolutionized industry. I hope I have not been too sanguine in describing what is being attempted during these recent years to meet the new conditions of life. The half-century which saw the beginning of the Universal Postal Union also saw the beginning of the use of

a new method of conference in the League of Nations, and so manifold are the activities now centering at Geneva that they touch the daily lives of all peoples, whether or not they have signed the parchment called the Covenant. The work begun at The Hague a quarter of a century ago has come to fruition in the establishment of the Permanent Court of International Justice, which is already on the high road to essential service. A fast-growing body of international law is freeing itself gradually from the obsolete vestiges of a former era, and is being brought into closer correspondence with the needs of the time which it serves. I think we may say that we are making progress toward transforming our world society into an organized community, and that it promises to become a community in which human endeavor, if not freed from the imminent possibility of defeat by war and strife, will be less subject to that fate than it has been in the past. And if we can trust ourselves for a glimpse into the future, I think we may say that mankind is moving slowly toward a larger loyalty.

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